

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
vs.) No. 12-CR-00140-PB
)
)
LISA BIRON,)
)
)
Defendant)

**MOTION TO CLARIFY VICTIM STATUS PURSUANT
TO 18 U.S.C. § 3771**

NOW COMES the Defendant, Lisa Biron, by and through her counsel, respectfully moves this Court to seek clarification of the victim's status pursuant to 18 U.S.C. § 3771.

As grounds in support of this Motion, it is stated:

1. Sentencing in this matter is scheduled to take place on May 23, 2013.
2. Counsel for the defendant has been contacted by the victim's attorney in the family court matter who indicated that she has been told by the victim in this matter that she wishes to attend her mother's sentencing hearing. Obviously, undersigned counsel has had no contact with the victim and cannot personally ascertain her position.
3. Counsel's concern is that the issue of the attendance of the victim or not be resolved prior to the sentencing hearing. While counsel believes that the victim's input on sentencing may be helpful to the Court, it is the victim's unique right under 18 U.S.C. § 3771 to decide for herself whether she wishes to be involved. Again, counsel's concern is that this be resolved prior to sentencing so as not to cause a delay.

3. US Probation Officer Melissa Elworthy has also indicated to counsel that to date she has been unable to speak with the victim .

4. Upon information and belief, the family court in Manchester has before it a motion regarding this issue.

5. The Government, through Assistant United States Attorney Helen Fitzgibbon, assents in the prayer for a conference with the Court.

For the foregoing reasons, the defendant respectfully requests that this Honorable Court to seek clarification of the victim's status pursuant to 18 U.S.C. § 3771 and requests that a conference with the Court regarding this issue be scheduled.

Respectfully submitted,

/s/ James H. Moir
JAMES H. MOIR, #1783
Moir & Rabinowitz, PLLC
5 Green Street
Concord, NH 03301
(603) 224-3500
Attorney for Defendant
Lisa Biron

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of May, 2013, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which sent e-mail notification of such filing to all CM/ECF participants in this case, and a copy was mailed, via the United States Postal Service, to all non-CM/ECF participants.

/s/ James H. Moir
JAMES H. MOIR
